



California Regional Water Quality Control Board

Santa Ana Region



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Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

May 27, 2008

Ken Nishikawa
Tustin Legacy Community Partners
130 Vantis, Suite 200
Aliso Viejo, CA 92656

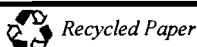
CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE TUSTIN RANCH ROAD EXTENSION PROJECT, CITY OF TUSTIN, ORANGE COUNTY (ACOE REFERENCE NO. 2008 – 00440 – JPL)

Dear Mr. Nishikawa:

On March 24, 2008, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), submitted by RBF Consulting, Inc., for the proposed extension of Tustin Ranch Road in the City of Tustin. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

Project Description: Extension of Tustin Ranch Road from its current terminus at Walnut Avenue, onto the former Tustin Marine Corps Air Station past Edinger Avenue, to the future Valencia North Loop Road. In order to cross the Santa Ana/Santa Fe Channel and the adjacent, parallel Burlington Northern Santa Fe Railroad tracks, a grade separation and bridge will be constructed to span the railroad, Channel, and Edinger Avenue. Vehicle access from Tustin Ranch Road to Edinger Avenue will occur via an access ramp. In order to construct piers for the bridge, excavation will occur in the Santa Ana/Santa Fe Channel for footings, and temporary structures will be needed to divert Channel flows around the work site. Storm water runoff from the new roadway will be treated by catch basin media filters in the storm drain inlets at either end of the bridge. The roadway and the inlet filters will be operated and maintained by the City of Tustin upon satisfactory completion. The project is located within an unsectioned portion of Township 5 South, Range 5 West, of the

California Environmental Protection Agency



U.S. Geological Survey *Tustin, California*, 7.5-minute topographic quadrangle map (33 deg. 42 min. 48 sec. N/ - 117 deg. 48 min. 47 sec. W).

Receiving water: Santa Ana/Santa Fe Channel.

Fill area: 0.05 acre of temporary impact to a perennial flood control channel (200 linear feet).

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 33

You have proposed to mitigate water quality impacts as described in your Certification application and subsequent submittals. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Nuisance flow and 'first-flush' discharges of urban runoff will be treated in inlet filters that will be maintained by the City of Tustin.
- Additional site-specific best management practices (BMPs) will be specified in the site's Storm Water Pollution Prevention Plan (SWPPP) and Water Quality Management Plan (WQMP).

Offsite Water Quality Standards Mitigation Proposed:

- No off-site water quality standards mitigation is proposed.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State. This project is over one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ, is required, as is development of a Storm Water Pollution Prevention Plan (SWPPP), to control the discharge of pollutants from the project site.

Construction de-watering discharges from the proposed project may be regulated under Regional Board Order No. R8-2007-0041, General Waste Discharge Requirements for Short-term Groundwater-Related Dischargers and De Minimis Wastewater Discharges to Surface Waters Within the San Diego Creek/Newport Bay Watershed, NPDES No.

CAG998002. For more information, please review Order No. R8-2007-0041 at: www.waterboards.ca.gov/santaana/pdf/07-41.pdf

The Santa Ana/Santa Fe Channel in the vicinity of the project is currently unable to convey flows from a 100-year flood event according to the Orange County Hydrology Manual. In order to convey the flows, the current configuration – a rip-rap lined channel – is proposed to be modified into an earthen-bottom rectangular channel with vertical concrete banks as part of a separate future project. The proposed footings and piers are not expected to impinge on the ultimate channel cross-section and reduce the local hydraulic capacity of the Channel. The water quality impacts of this future project will be addressed in a separate Certification action.

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game. Pursuant to the California Environmental Quality Act (CEQA), the City of Tustin adopted a Supplemental Environmental Impact Report (SEIR) on December 6, 2004. The Executive Officer has considered the City's SEIR in the issuance of this Certification.

This 401 Certification is contingent upon the execution of the following conditions:

1. This Certification and any subsequent amendments must be maintained on site as a denoted element of any project SWPPP or WQMP.
2. This Certification is transferable only upon written notice to the Executive Officer. The notice must include written acknowledgement of this Certification by the transferee's authorized representative.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that

application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

Although we anticipate no further regulatory involvement, if the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all



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conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Jason Lambert
State Water Resources Control Board, OCC – David Rice
State Water Resources Control Board, DWQ-Water Quality Certification Unit –
Bill Orme
California Department of Fish and Game, Ontario Office – Naeem Siddiqui
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini
and David Smith

APF:401/certifications/Tustin ranch rd ext 302008-07

